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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,978	06/26/2001	Michael Roscoe	Hartford-4	1047

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EXAMINER	
CHENCINSKI, SIEGFRIED E	
ART UNIT	PAPER NUMBER
3691	

MAIL DATE	DELIVERY MODE
08/26/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/891,978	ROSCOE ET AL.	
	Examiner	Art Unit	
	SIEGFRIED E. CHENCINSKI	3691	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 July 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *31-36* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *31-36* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date. _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 28, 2008 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. **Claims 31-34 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Koppes et al. (US Patent 5,926,792, hereafter Koppes) in view of Champion et al. (US Patent 5,126,936, hereafter Champion), Parsons (US Patent 6,411,939 B1) and Sperandeo (US Patent 6,922,677 B1).

Re. claim 31, Koppes discloses a method and system to track, reconcile and administer the values of life insurance policies in separate accounts. Targeted funds are translated into unit values on a daily basis for each fund. Additionally, the system tracks restrictions (e.g. timing, account reallocations) on a premium by premium basis, and tracks the book value, market value, duration and targeted return on a client-by-client basis (Abstract). Koppes further discloses the periodic determining a net asset value of said insurance units at a known time based on a performance return of each of said investment instruments (daily – Col. 5, ll. 1-11, 39, 53; Fig. 2A(34)-net asset values), the imposing of administrative fees for each premium paid in (Col. 4, ll. 66-67), the charging

of performance fees on asset performance (Col. 1, l. 57), and the determining of net asset values for each investment instrument and the adjusting of the current number of insurance units at a selected date (daily – Col. 5, ll. 39, 53).

Koppes does not explicitly disclose

- the imposing of one time administrative fees deducted from premiums as they are paid in prior to investment.
- the charging of a performance fee as a percentage of said change in value of each of said investment instruments if said change in investment value is positive, and wherein said performance fee is zero if said change in investment value is negative, and wherein said net asset value of said insurance units is determined independent of said performance fee.

However, Parsons discloses the charging of administrative fees assessed to investor participants prior and being deducted prior to the investment of funds (Col. 46, ll. 31-43; Col. 60, ll. 57-62).

Further, Champion discloses the charging of performance fees contingent on financial asset value performance over set periods of time (Col. 11, ll. 26-27).

Also, Sperandeo discloses performance fees on a percentage basis based on a hurdle rate. it would be obvious to an ordinary practitioner that such a hurdle rate could be zero or better. It also would have been obvious to the ordinary practitioner that no performance fee would be paid if the performance was at zero or negative. It would also have been obvious common sense that the net asset value of said insurance units is determined independent of said performance fee since the net asset value needed to determine a performance fee would have to be calculated prior to the determination of a performance fee, thus being an independent calculation from the performance fee.

Therefore, an ordinary practitioner of the art at the time of Applicant's invention would have found it obvious to combine the disclosures of Koppes, Champion, Parsons and Sperandeo in order to construct a method for determining life insurance policy values, motivated by a desire to provide methods and systems capable of tracking and reporting assets and liabilities on a near real-time basis, making administration simple, keeping costs low, and providing timely information to plan participants and sponsors

(Koppes, Col. 4, ll. 18-24, 28-30 & 31-32).

Re. claim 32, Koppes discloses a method wherein said performance fee includes a fee for investment management and performance. (See the rejection of claim 31).

Re. claim 33, Koppes discloses the use of policy anniversary dates for triggering a particular event (Col. 6, l. 30; Col. 14, l. 23). It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have used an anniversary date as a selected date for determining life insurance policy value.

Re. claim 34, the disclosures by Koppes, Champion, Parsons and Sperandeo regarding the determining of life insurance policy values are stated in the rejection of independent claim 31 above.

Koppes discloses a method for determining a life insurance policy value comprising the steps of:

(a) calculating a gross net asset value of an insurance unit based on gross investment performance (Col. 5, ll. 1-11, 39, 53; Fig. 2A);

(b) deducting an investment expense from the gross net asset value to obtain a final net asset value of the insurance unit (Col. 5, ll. 1-11, 39, 53; Fig. 2A);

(c) calculating a cost of insurance (Col. 5, ll. 12-32);

(d) calculating a number of insurance units for the cost of insurance charge (Col. 5, ll. 12-32);

(e) calculating an investment gain or loss by subtracting the cost of insurance charge from gross investment earnings (Col. 5, ll. 12-32); netting out the cost of insurance (liabilities) from the gross and net assets (Col. 5, ll. 1-54).

Koppes does not explicitly disclose the details of

(c) calculating a cost of insurance

(e) "if the investment gain is positive then calculating an incurred performance fee; otherwise setting the performance fee to zero".

However, please see the rejection of claim 31 for the calculating of a performance fee if the investment gain is positive then calculating an incurred performance fee; otherwise setting the performance fee to zero.

Parsons also discloses calculating the cost of insurance (Col. 8, ll. 46-49, Fig. 36).

It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have deduced from the Koppes teaching the method for determining a life insurance policy value comprising the steps of: (a) calculating a gross net asset value; (b) deducting an investment expense; (c) calculating a cost of insurance: (d) calculating a number of units for the cost of insurance charge; (e) calculating an investment gain or loss; and if the investment gain is positive then calculate an incurred performance fee otherwise set the performance fee to a fixed value. Therefore, an ordinary practitioner of the art at the time of Applicant's invention would have found it obvious to combine the disclosures of Koppes, Champion, Parsons and Sperandeo in order to construct a method for determining life insurance policy values, motivated by a desire to provide methods and systems capable of tracking and reporting assets and liabilities on a near real-time basis, making administration simple, keeping costs low, and providing timely information to plan participants and sponsors (Koppes, Col. 4, ll. 18-24, 28-30 & 31-32).

3. Claims 31-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koppes in view of Champion, Parsons and Sperandeo as applied to claim 34 above, and further in view of Lloyd (US Patent 4,876,648).

Re. claim 35, none of Koppes, Champion, Parsons or Sperandeo explicitly disclose setting a surrender charge equal to the incurred performance fee. However Lloyd discloses setting surrender charges. It would have been obvious to the ordinary practitioner to set a surrender charge equal to the incurred performance fee since this would merely collecting was has been earned up to the point of surrender.

Re. claim 36, none of Koppes, Champion, Parsons, Sperandeo or Lloyd explicitly disclose if the date is a policy anniversary, determining a number of insurance units equal to the incurred performance fee, deducting the determined number of insurance units from a total number of units, and resetting the surrender charge to zero. However, an ordinary practitioner of the art at the time of Applicant's invention would have seen it as obvious that such an option is equivalent to charging a performance fee and thus would have been an equivalent option if within the terms of the insurance contract. Said

another way, since the performance fee has already been deducted from the assets at each anniversary there is no performance fee remaining to be charged.
Therefore, re. Claims 35 and 36, it would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have combined the disclosures of Koppes, Champion, Parsons, Sperandeo and Lloyd and what the practitioner would have seen as obvious for the purpose of determining a life insurance policy value, motivated by a desire to provide methods and systems capable of tracking and reporting assets and liabilities on a near real-time basis, making administration simple, keeping costs low, and providing timely information to plan participants and sponsors (Koppes, Col. 4, ll. 18-24, 28-30 & 31-32).

Response to Arguments

4. Applicant's arguments filed November 8, 2007 with respect to claims 31-36 have been considered but they are moot in view of the new ground(s) of rejection.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Siegfried Chencinski whose telephone number is (571)272-6792. The Examiner can normally be reached Monday through Friday, 9am to 6pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Alexander Kalinowski, can be reached on (571) 272-6771.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks, Washington D.C. 20231

or faxed to:

(571)273-8300 [Official communications; including After Final communications labeled "Box AF"]

(571) 273-6793 [Informal/Draft communications, labeled "PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to the address found on the above USPTO web site in Alexandria, VA.

SEC

August 25, 2008

/Narayanswamy Subramanian/
Primary Examiner, Art Unit 3691